

REMARKS

Applicants respectfully acknowledge and accept the indication of allowance of claims 26- 28, 30 and 32. This Amendment cancels claims 25 without prejudice, and amends claims 1, 11 and 33. The amendments to claims 1 and 11 add further patentable distinctions not found in the prior art. Claim 33 is now an independent claim and includes the subject matter of claim 25. Support for the amendments to claims 1 and 11, in particular, can be found in the specification and drawings as originally filed. No new matter has been added.

Claim Rejection under 35 U.S.C. §102(e)

Claims 1-7, 11-20 and 22-25 stand rejected under 35 U.S.C. §102(e) as being anticipated by Noll et al. U.S. Patent No. 6,581,626 (hereinafter the “Noll” reference).

As indicated hereinabove, independent claims 1 and 11 are amended to include patentable distinctions not found in the Noll reference. More particularly, these claims 1 and 11 now recite the modular cage as being a one-piece non-movable construction. This construction of the modular cage 32 is particularly shown in Fig. 3 of the patent application. As taught in the patent application, the modular cage 32 is inserted into housing 16 in a manner illustrated in Fig. 2. Paragraph [0025] of US 2004/0134537 A1, which is the publication of the instant application, discloses that when the modular cage 32 is received within the flow channel 27 of the housing 16, the gaskets 54, 56 are compressed against the exterior surface 42 of the body 38 of the modular cage 32 within the flow channel 26 of the housing 16. Because the length L1 is smaller at the bottom portion 28 of the flow channel 26, the modular cage 32 is held in place by a tight fit between exterior surface 42 of the body 38

of the modular cage 32 and the walls B1 and B2 at the bottom portion 28 of the flow channel 26. As further taught in the patent application, this configuration of the modular cage 32 and the housing 16 helps to create the wedged arrangement recited in the allowed claims in this case.

The one-piece non-movable construction of the modular cage 32 of the claimed invention can be contrasted to the two or three valve bodies of the Noll reference. In this reference, a first valve body 45, an intermediate valve body 50 and a third valve body 55 may be slidably sealed with one another and compressed such that their combined length is less than the length of the opening 25 of the housing 15. In the compressed state, the valve bodies 45, 50 and 55 may be inserted within the opening 25 and then elongated such that the ends of valve bodies 45 and 55 engage and provide a slideable seal with segments of the housing 15.

Thus, amended claims 1 and 11 are not anticipated by the Noll reference nor can these claims be considered obvious in view of the Noll reference since the Noll reference requires that the valve bodies 45, 50 and 55 move relative to each other, i.e., compressed for their insertion into housing 15. If the one piece non-movable modular cage of the claimed invention was substituted for the two or three valve body configuration of the Noll reference, the invention of the Noll reference would be inoperative. The one-piece non-movable modular cage of the claimed invention may be placed within the housing 15 similar to what is shown in Fig. 3 of the Noll reference; however, there would be no sealing of the one-piece non-movable modular of the claimed invention within elements 30 and 35. In the Noll reference, the valve bodies 45, 50 and 55 are expanded to be sealed within elements 30 and 35. That is, valve body 45 is slidably sealed within the outlet 32 of the first segment 30, the inlet 51 of the intermediate valve body 50 is slidably sealed within the outlet 47 of the

first valve body 45 and the second valve body 55 is slidably sealed with the outlet 52 of the intermediate body and the outlet 57 of the second body valve 55 is slidably sealed within the inlet 36 of the segment 35 to attain and maintain the positioning of these elements as represented in Fig. 4 of the Noll reference.

Dependent claims 2-7 and 12-20 and 22-24 directly or indirectly depend from and add further limitations to either independent claim 1 or independent claim 11. These claims are believed to be in condition for allowance since they depend from claims which are believed to be patentable.

Claim Rejections under 35 U.S.C. §103(a)

Claims 8, 9 and 22-24 stand rejected under 35 U.S.C. §103(a) as being obvious in view of the Noll reference as applied to claims 1-7, 11-20 and 22-25 above and further in view of WO 00/70246.

The same argument applied hereinabove with regard to the '626 Noll reference applies here with equal force. Claims 8, 9 and 22-24 directly or indirectly depend from and add further limitations to either independent claim 1 or independent claim 11. These claims 8, 9 and 22-24 are believed to be in condition for allowance since they depend from claims which are believed to be patentable.

Applicants respectfully note that this rejection to the claims was improper according to the current United States patent laws. Under M.P.E.P. 706.02(e)(1)-706.02(e)(3) and under 35 U.S.C. §102(e), a reference cannot be used as prior art to support a rejection under 35 U.S.C. §103(c)(1) if the application and the reference have common ownership at the time the invention was made. Such is the current situation regarding the '626 Noll reference.

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